

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT

NML CAPITAL, LTD.,

Plaintiff,

vs.

SPACE EXPLORATION
TECHNOLOGIES CORP., aka
SPACEX, a Delaware corporation;
THE REPUBLIC OF ARGENTINA, a
foreign state, including its *COMISIÓN
NACIONAL DE ACTIVIDADES
ESPACIALES*, aka CONAE, a political
subdivision of the Argentine State; and
DOES 1-10,

Defendants.

No. 14 CV 02262-SVW-Ex

[*Hon. Stephen V. Wilson*]

**[PROPOSED] ORDER GRANTING
MOTION BY THE REPUBLIC OF
ARGENTINA TO DISMISS
COMPLAINT UNDER F.R.C.P
12(b)(1) AND (6)**

Hearing Date: June 30, 2014

Time: 1:30 p.m.

Courtroom: 6

Compl. filed: March 25, 2014

1 Upon consideration of the motion by defendant the Republic of Argentina
 2 (the “Republic”) to dismiss the Complaint of plaintiff NML Capital, Ltd. with
 3 prejudice under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), which was
 4 fully briefed and presented for hearing on June 30, 2014,

5 **IT IS HEREBY ORDERED THAT:**

6 1. Comisión Nacional de Actividades Espaciales (“CONAE”), an
 7 “agency or instrumentality” under the Foreign Sovereign Immunities Act (“FSIA”),
 8 28 U.S.C. Section 1603(b), is separate from the Republic and thus not liable for its
 9 debts, and is immune from U.S. court jurisdiction in connection with the claim
 10 asserted in the Complaint against the Republic;

11 2. In addition, even if subject matter jurisdiction over this action existed
 12 and CONAE were liable for the Republic’s debts, the Complaint fails to allege the
 13 existence of any CONAE property that is subject to execution under FSIA Section
 14 1610(a), *i.e.*, CONAE property in the United States that CONAE is using for a
 15 commercial activity in the United States. The Complaint thus fails to allege a basis
 16 for the Court to award NML its requested relief;

17 3. The Court accordingly lacks subject matter jurisdiction over the action,
 18 and the Complaint fails to state a claim upon which relief can be granted; and

19 4. The Complaint should be, and hereby is, dismissed with prejudice.
 20

21 Dated: June , 2014
 22

23 _____
 Hon. Stephen V. Wilson

24 UNITED STATES DISTRICT
 25 JUDGE
 26
 27
 28